



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

MEH:ddj
Docket No: 1148-00
6 September 2000

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 6 September 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by CNO memorandum 5420 SER N130D/OU0406 of 11 August 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO
5420
Ser N130D/OU0406
11 Aug 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (Pers-00ZCB)

Subj: COMMENT AND RECOMMENDATION IN THE CA [REDACTED]
[REDACTED]

Ref: (a) U.S. Code Title 37 §308
(b) DOD Financial Management Regulation 7000.14 Vol. 7A

Encl: (1) BCNR File #01148-00 without microfiche service record

1. The following provides comment and recommendation on former Petty Officer [REDACTED] petition. [REDACTED] requests the recoupment of a Selective Reenlistment Bonus (SRB) not be required due to the involuntary nature of his discharge. He also requests clarification on which item under the recoupment clause he violated.

2. N130 recommends deny [REDACTED]'s request. From the perspective of Enlisted Bonus Programs, [REDACTED] case was appropriately handled and recoupment of the unearned portion of the bonus is correct. [REDACTED] is not entitled to keep the unearned portion of SRB following his early separation from the Navy after he and his spouse separated and he won custody of their minor child.

3. SRB is a retention incentive paid to enlisted members serving in certain critical skills (ratings and/or specific skills) who reenlist for additional obligated service. SRB is a monetary incentive paid on top of basic military pay and allowances. It is used to increase the number of reenlistments of personnel in critical skills having insufficient retention levels to adequately man and sustain the career force. To remain entitled to the bonus the member must maintain skill qualification and availability to serve (work) in the skill. Failure to maintain qualifications or active duty status results in recoupment of the unearned portions of the bonus, per references (a) and (b). The unearned portion is that part of the bonus from the time the member stops working in the bonus skill to the end of authorized obligated service (EAOS). Recoupment is required when a member separates for parenthood. In these cases, the member separates early because they do not appropriately certify they have made


Subj: COMMENT AND RECOMMENDATION IN THE CASE OF FORMER PETTY
OFF [REDACTED]

adequate arrangements to meet Department of the Navy dependent care policy. In Mr. [REDACTED] case, he separated because he was unable to perform prescribed duties, was subject to repetitive absenteeism, or non-availability for worldwide assignment due to custody of a minor child.

4. With regards to the clause under which the recoupment action was taken, on 7 March 1994, [REDACTED] signed a Page 13 (Administrative Remarks) declaration of understanding. That declaration states, in part, "I fully understand that continued entitlement to unpaid installments may be terminated and a pro rata portion of advance bonus payments recouped if I am considered not technically qualified in the bonus specialty because (a) I am no longer classified in that specialty, (c) the specialty designator is removed from my records, and (c) current and future assignment in my military specialty is precluded..." Mr. [REDACTED] non-compliance with the Navy's family care policy results in his inability to meet the terms of the bonus payment and triggers the recoupment.

5. Based on my review of the petition package and the letters from the Defense Finance and Accounting Service, Denver Center, this case was handled correctly.

6. BCNR case file is returned herewith as enclosure (1).


SEAN G. NEILAN
Head, Enlisted Bonus
Programs Policy Section